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REVIEW OF FURTHER DEVELOPMENTS IN FIELDS WITH WHICH THE SUB-COMMISSION HAS BEEN CONCERNED

Discrimination against HIV-infected people or people with AIDS

Conclusions and recommendations: Final report submitted by Mr. Luis Varela Quirós, Special Rapporteur

DISCRIMINATION AGAINST HIV-INFECTED PEOPLE OR PEOPLE WITH AIDS: CONCLUSIONS AND RECOMMENDATIONS OF THE SPECIAL RAPPORTEUR OF THE SUB-COMMISSION

1. As has been stated repeatedly in previous reports, discrimination against HIV-infected people is neither admissible under international human rights instruments nor appropriate as a means of implementing the only possible policy for controlling the AIDS pandemic, namely the adoption of preventive measures that can contribute in a rational way to reducing the spread of the disease.

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2. Discriminatory practices can be eradicated only by means of national and international education programmes that create a genuine climate of respect for human rights and reject any discriminatory policy against socially vulnerable groups. The dissemination of accurate and appropriate information will help to stamp out certain social prejudices that tend to simplify the issue, reducing it to a matter of the alleged vulnerability of particular groups. This attitude is misleading and dangerous for society itself. Such prejudices serve only to impede the implementation of a general policy of AIDS control involving the whole of society and to create confusion in peoples' minds as to the true causes of the disease.

3. Although in the international legislation in force there are a sufficient number of rules that proclaim and regulate the population's right to health, programmes must be implemented by all governments in order to ensure the effective observance of this right for everyone, give helpful advice on means of preventing the spread of the AIDS virus and provide proper care for victims so that they can face up to the consequences of the disease in a dignified manner. It is necessary for appropriate hospital treatment and psychological care to be provided so that those suffering from the disease can face up to its consequences not only as regards the breakdown of their immune system but also in terms of their mental health and the consequences for their family and close friends who are sometimes discriminated against in the same way as AIDS sufferers.

4. As the AIDS pandemic advances, two groups stand out as being the ones most unfairly affected by it, owing in most cases to discriminatory patterns of behaviour based on ancestral cultural practices. These two groups are essentially women and children.

5. In most societies women continue to be subjected to indiscriminate violence, particularly of a sexual character, which exposes them to the risk of contracting the disease as a result of dangerous behaviour patterns and practices on the part of their husbands or partners. The latter, without taking the necessary precautions, engage in promiscuous behaviour that turns them into potential transmitters of the disease to completely innocent people who, for cultural reasons, are not supplied with the information needed for them to be able to protect themselves. Society should give special attention to this phenomenon so as to ensure women of the full enjoyment of their rights and particularly the right to health, not just in theory but in practice.

6. The incidence of AIDS in the heterosexual population is steadily increasing, as is shown by figures from the World Health Organization, largely as a result of sexual relations without the necessary precautions and irresponsible sexual behaviour, of which women in particular are the victims. If for no other reason, governments should encourage young people and adults alike to adopt every possible measure that they consider effective to prevent the disease. No reason can outweigh in importance the health and, ultimately, the lives of human beings.

7. Special emphasis should be laid on the provisions of the Convention on the Elimination of All Forms of Discrimination Against Women, to which 120 States are already party and which requires of them that they seek by all

appropriate means and without delay to eliminate all forms of discrimination against women, particularly in the matter of health services.

8. The Special Rapporteur is deeply concerned by reports from various parts of the world concerning the exploitation of children and the scandalous increase in child prostitution. A number of non-governmental organizations have been constantly denouncing this despicable practice for several years and especially on the occasion of the recent World Conference on Human Rights, held in Vienna last June.

9. It is particularly painful to think that the rights of one section of the population are being violated when indeed the international obligations of most States, and the policy of all of them, require that due attention be given to children, as a group who cannot by themselves defend their rights through being under the legal protection of their elders. The consequences that this phenomenon may have for the mental and physical development of the persons affected by this practice are truly alarming.

10. No one can deny that the United Nations system has special responsibility for protecting children. Occurrences like the spread of various sexually-transmitted diseases and particularly AIDS, which are barely the tip of the iceberg, tend to ruin the physical and mental development of children and to sap their confidence in society and in the international community as a whole. There must be an end to this practice which is not far short of slavery and which turns boys and girls alike into cheap merchandise for procurers, sometimes with the complicity of their own parents or guardians. Not only must such a practice be condemned, but also governments should take strict measures to put an end to this inhuman exploitation of children all over the world.

11. The international community for its part must take effective measures to put an end to this abusive, discriminatory and loathsome practice against the most innocent members of any society. This practice must be strongly and clearly condemned by the Sub-Commission on Prevention of Discrimination and Protection of Minorities at the earliest opportunity, if possible at the present session.

12. Aside from the foregoing matters, the Special Rapporteur is firmly convinced that the United Nations should not practise any kind of political discrimination against officials of the Organization affected by the AIDS virus or any other terminal disease. All United Nations bodies and agencies should be given instructions to this effect so that they make every effort to avoid discriminatory practices that run counter to the recommendations made by the World Health Organization and the bodies responsible for the protection and promotion of human rights. Were the United Nations to act otherwise, it would forfeit the legitimacy it has achieved since its inception in the fight against discrimination and would violate its own Charter.

13. If humankind does not in the near future take measures to halt the rapid advance of AIDS the very survival of the human species will be jeopardized. It is high time that humankind became aware of the danger lying in store before it is too late, and in this struggle discrimination, disinformation and prejudice are the allies of death as represented by AIDS. Only education,

fair and equitable treatment for all members of society and a practice directed towards the preservation of human life over any other value will be effective allies in the human race's struggle for its own existence.

14. Any human being suffering from a disease, contagious or otherwise, should be treated without discrimination in accordance with the universal principles applicable in the field of human rights.